

Appl No. 09/091,333
Amdt. Dated Aug. 11, 03
Reply to the Office action of Feb. 10, 2003

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- Claim 7 (original) A process according to claim 6, wherein the solvent is selected from the group consisting of water, formic acid, acetic acid, propionic acid, benzene, toluene, xylene, mesitylene, tetralin, chlorobenzene, dichlorobenzene, bromobenzene, petroleum ether, hexane, cyclohexane, dichloromethane, trichloromethane, tetrachloromethane, dichloroethane, trichloroethane, tetrachloroethane, and mixtures of these solvents.
- Claim 8 Canceled
- Claim 9 (twice amended) A process according to claim [2] 7, wherein the solvent is a mixture of water and dichloromethane.
- Claim 10 (original) A process according to claim 9, wherein the weight ratio of dichloromethane to water is from about 5 to about 50.
- Claim 11 (canceled)
- Claim 12 (original) A process according to claim 2, wherein the reaction is carried out at from about -10°C to about +40°C.
- Claim 13 (original) A process according to claim 2, wherein the reaction period is from about 0.1 to about 4 hours.
- Claims 14 - 69 (canceled)
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REMARKS

In the amendment, the Examiner is requested to kindly CANCEL claims 1, 15, 16, 18-20, 22-24, 26, 27, 29-31, 33-35, 37, 38, 40-42, 44-46, 48-52, 54-56, 58-64, 66, 67 and 69 without prejudice to the subject matter involved and to kindly amend claims 2 and 9 as indicated.

After entry of the amendment, claims 2 - 7, 9 - 10 and 12 - 13 are pending.

Claims 1, 15, 16, 18-20, 22-24, 26, 27, 29-31, 33-35, 37, 38, 40-42, 44-46, 48-52, 54-56, 58-64, 66, 67 and 69 have been canceled without prejudice. More specifically, generic claim 1 is canceled to the extent that it embraces non-elected subject matter and claims 15, 16, 18-20, 22-24, 26, 27, 29-31, 33-35, 37, 38, 40-42, 44-46, 48-52, 54-56, 58-64, 66 and 67 are canceled as being drawn to non-elected subject matter. Applicants reserve the right to file claims to the subject matter of the canceled claims in this application, or other applications claiming the benefit hereof. Claim 69 is canceled as being substantially duplicative of original claim 2. Claim 2 is rewritten in

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independent form, but is otherwise identical to and has the same scope as the originally presented claim. The remaining claims 3 – 7, 9 – 10 and 12 – 13 depend either directly or indirectly from now independent claim 2. Claim 9 is amended to depend from claim 7. No issues of new matter should arise, and entry of the amendment is respectfully requested.

Applicants respectfully traverse the rejection under § 102(g) of claim 69 based on U.S. patent no. 5679796. Claim 69 is now canceled as being substantially duplicative of original claim 2. For reasons already of record, Applicants respectfully submit that no disclaimer of the subject matter of the original claim 2 nor canceled claim 69 is made or has been made. The subject matter of original claim 2 was presented in the international application no. PCT/EP96/05564 filed December 12, 1996 having a § 119(a) priority date of December 21, 1995 based on Swiss application no. 3636/95. The § 371 requirements of the above-identified application were met on October 26, 1998.

The cited U.S. patent 5,679,796 was granted on October 21, 1997 based on an application filed on December 13, 1996 and facially indicates a foreign priority of December 22, 1995. Accordingly, the '796 patent is not available as a reference against the instant claims.

As the subject matter claimed in original claim 2 was presented well before the issue date of the Kraatz '796 patent and Applicants have neither contested, conceded nor lost priority with respect to the subject matter of instant claim 2, no grounds exist for rejecting claim 2 or any substantial duplicate thereof under § 102(g) in the manner suggested by the Examiner. The Examiner is respectfully requested to reconsider and to withdraw the rejection.

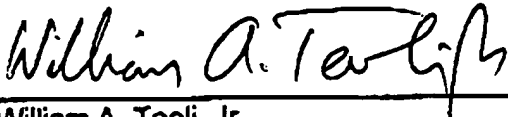
The rejection of claim 1 under § 112, second paragraph, is now moot in view of the cancellation of claim 1 without prejudice.

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An early and favorable reconsideration and allowance of claims 2 – 7, 9 – 10 and 12 – 13 is respectfully requested. If any fee under 37 CFR § 1.17 is due in connection with this amendment, the Assistant Commissioner is authorized to charge Deposit Account No. 50-1676 in the name of Syngenta Crop Protection, Inc. for the appropriate amount.

Respectfully submitted,

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